

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Integrys Energy Services, Inc.	:	
	:	
Petition for Relief to Protect Integrys	:	08-0173
Energy Services' Annual Call Center	:	
Report from disclosure for not less than	:	
five years in order to protect highly	:	
confidential and proprietary information.	:	

PROPOSED ORDER

By the Commission:

On March 3, 2008, Integrys Energy Services, Inc., ("Petitioner") filed a verified petition requesting that the Illinois Commerce Commission ("Commission") enter an order, pursuant to 83 Ill. Adm. Code 451.60, protecting its Call Center Report ("CC Report") from disclosure for a period of not less than five (5) years. On March 11, 2008, a notice of a ruling was issued to Petitioner requesting it to explain how the specific data in the CC Report, deemed proprietary by Petitioner such that it constitutes trade information and market sensitive information regarding Petitioner's customer base in Illinois. Petitioner filed an amended petition responding to this ruling on March 20, 2008.

Petitioner is certified by the Commission as an Alternative Retail Electric Supplier ("ARES") in Illinois. The petition indicates Petitioner's CC Report contains confidential trade and market sensitive information that is highly sensitive and of a confidential and proprietary nature, the disclosure of which to competitors, or potential competitors, would be detrimental to Petitioner.

In support, Petitioner cites the Illinois Freedom of Information Act, 5 ILCS 140/7. Petitioner further cites 83 Ill. Adm. Code 451.60, which provides, in pertinent part:

If an . . . ARES believes any of the information to be disclosed by an . . . ARES is privileged or confidential, the . . . ARES should request that the Commission enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies pursuant to 83 Ill. Adm. Code 200.430.

The petition further states that because the retail electric services industry is highly competitive, it is imperative that public disclosure of confidential information contained in the CC Report be avoided for a period of at least five years following issuance of an Order by the Commission. With respect to the CC Report data, the Petitioner states that the CC Report contains information regarding Petitioner's provision

of service to non-residential customers in Illinois. Petitioner further asserts that unlike the public utilities that the Commission regulates, Petitioner does not have a franchised service territory and it does not have an exclusive right to serve any customers. According to the Petitioner, the key factor supporting confidential treatment of the CC Report is that an ARES would not willingly share this information with the market. The CC Report also contains customer support activity that shows how many calls per month Petitioner receives, the average duration of those calls, the answer and abandon data, and the time within which calls are answered or abandoned. This data can be indicia of how many customers an ARES has and customer satisfaction. Thus, this information according to the Petitioner can be commercially valuable and commercially sensitive.

To obtain confidential treatment, the Petitioner has to show that the information may cause competitive harm. The Petitioner's statement that competitors could determine market share by knowing how many calls per month Petitioner receives, the average duration of those calls, the answer and abandon data, and the time within which calls are answered or abandoned from the CC Report does not explain how the revelation of their "market share" would lead to competitive harm, nor does it justify keeping the information confidential for five years.

All facts necessary for the Commission to grant the requested relief are contained in the petition; thus the Administrative Law Judge waived hearing in this matter.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Petitioner is an Alternative Retail Electric Supplier, pursuant to Section 16-102 of the Public Utilities Act ("Act");
- (2) the Commission has jurisdiction over Petitioner and of the subject matter herein;
- (3) the recitals of fact set forth in the prefatory portion of this Order are supported by the petition and are hereby adopted as findings of fact;
- (4) Section 5-109 of the Act states, in relevant part:

All reports made to the Commission by any public utility and the contents thereof shall be open to public inspections, unless otherwise ordered by the Commission;
- (5) Section 7(g) of the Illinois Freedom of Information Act (5 ILCS 140/7) exempts the following from public disclosure:

Trade Secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary, privileged or confidential, or where such disclosure of such trade secrets or information may cause competitive harm;

- (6) Section 451.60 of the Illinois Administrative Code states, in relevant part:

If an . . . ARES believes any of the information to be disclosed by an . . . ARES is privileged or confidential, the . . . ARES should request that the Commission enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies pursuant to 83 Ill. Adm. Code 200.430;

- (7) the verified Petition states that the CC Report information specified above falls within the exemption stated in Finding (5) and (6) above;
- (8) Petitioner's CC Report is not exempt from public disclosure under Section 7(g) of the Illinois Freedom of Information Act and 83 Ill. Adm. Code 551.60 and Section 5-109 of the Public Utilities Acts.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the information contained in the 2007 Call Center Report for Integrys Energy Services, Inc will not be afforded proprietary treatment.

IT IS FURTHER ORDERED that the Illinois Commerce Commission retains jurisdiction over Integrys Energy Services, Inc., and of the subject matter hereof for the purpose of issuing such further orders as the Commission may deem necessary.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED: August 12, 2008

Lisa M. Tapia
Administrative Law Judge

Briefs on Exceptions due: August 26, 2008